

Codification Appendix 2-C

FORM OF EMPLOYMENT AGREEMENT

This **EMPLOYMENT AGREEMENT** ("Agreement") is made and entered into as of this ____ day of _____, 20__ by and between THE AMERICAN CONTRACT BRIDGE LEAGUE INC. ("ACBL"), a New York non-profit corporation, and _____ ("Executive"), an individual.

RECITALS

WHEREAS, ACBL desires to employ Executive in the capacity of Executive Director and Executive desires to accept such employment; and

WHEREAS, ACBL and Executive are entering into this Agreement to memorialize the terms and conditions of the desired employment relationship.

NOW, THEREFORE, in consideration for the following covenants, conditions, and promises, the ACBL and Executive hereby agree as follows:

1. EMPLOYMENT

1.01. **Executive's General Duties.** The ACBL hereby employs Executive and Executive hereby agrees to serve the ACBL in the capacity of Executive Director having such usual and customary duties and authority of an Executive Director of a non-profit corporation of comparable size, including, without limitation, all of the duties and responsibilities set forth in the job description of the Executive Director on file with the ACBL, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference. The duties of the Executive Director may be modified by the Board of Directors of ACBL from time to time during the term of this Agreement. During the term of this Agreement, Executive shall perform all services, duties, or things necessary or advisable to manage and conduct the business of the ACBL and perform such additional duties as directed by the Board of Directors ("Board") consistent with the position of the Executive Director of the ACBL.

1.02. **Devotion of Executive.** During the term of this Agreement, Executive shall devote his entire productive time and attention to the business of ACBL and shall have no other employment and shall use his best efforts, skills and abilities to promote the general welfare and interests of the ACBL.

1.03. **Location of Work.** During the term of this Agreement, Executive's primary place of work will be at the ACBL's principal office with travel as required for the performance of his duties. Executive's primary residence shall be within daily commuting distance of the ACBL Headquarters.

2. TERM

2.01. **Length of Term.** The term of Executive's employment under this Agreement shall commence on, _____ and shall continue for three (3) years through _____, unless terminated pursuant to Section 3 herein or extended pursuant to Section 2.02.

2.02 **Extension.** Approximately one year prior to the expiration of this contract, the Executive and the ACBL will meet to discuss an extension of this contract, a new contract, or other arrangements.

3. TERMINATION

This Agreement shall be terminated upon the occurrence of any one of the following events:

3.01 **Death.** Executive's death.

3.02 **Incapacity/Disability.** Executive becomes incapacitated or disabled, which incapacity or disability prevents Executive from fully performing his duties to the ACBL, with or without a reasonable accommodation, for a period in excess of ninety (90) days and, after such ninety (90) day period, the ACBL and a physician, duly licensed and qualified in the specialty related to Executive's incapacity, decide in their reasonable judgments that such incapacity will be permanent or of such continued duration as to prevent Executive from resuming the rendering of services to the ACBL for at least an additional sixty(60) day period. In such event, for the purposes of this Agreement, Executive shall be deemed permanently disabled, and this Agreement terminated, upon the date Executive receives written notice from the ACBL that such determination has been made.

3.03 **Misconduct.** Executive habitually neglects his duties to the ACBL, substantially harms ACBL or its reputation, is convicted of a crime other than a traffic offense or engages in gross misconduct during the term of this Agreement. For the purposes of this Agreement, "gross misconduct" includes, without limitation, committing any theft offense, misappropriation of funds, unauthorized possession of the ACBL property, or the illegal sale, distribution, possession, and/or use of a controlled substance while at work.

3.04 **Failure to Comply with Agreement.** In the event the ACBL is adversely affected by any failure of Executive to comply with a material term or provision of this Agreement, the ACBL shall have the right to terminate Executive's employment and to take such other action against Executive, at law or in equity, as the ACBL may deem necessary or proper. In such event, Executive's termination shall be effective immediately upon receipt of written notice from the ACBL.

3.05 **Failure of Performance.** The Executive Director may be removed, and this contract may be terminated upon a two-thirds (2/3) vote of the ACBL Board of Directors for failure of performance. If such resolution is approved, the contract will be terminated on a date set by the Board. Salary will cease on the date of termination.

Before such a resolution is made, an Executive Director Review Committee (or a similar Committee) should review the performance of the Executive Director and recommend if required performance levels have been met and whether the resolution should be made. The Board's policy is to use an Executive Director Review Committee to provide the Executive Director feedback at each of its regularly scheduled board meetings. The substance of the conversation should be documented, and the Executive Director given a copy.

3.06 **Without Cause.** Either party may terminate this Agreement without cause upon forty-five (45) calendar days prior written notice to the other party. In the event of termination of this Agreement by the ACBL in accordance with this Section 3.06, the ACBL at its option may advise Executive that his physical presence at the ACBL is not required during the forty-five (45) calendar day period after receipt of the notice; provided, however, that Executive shall be entitled to regular salary and benefits due under this Agreement during such forty-five (45) calendar day period.

3.07 **Mutual Consent.** The ACBL and Executive may mutually consent to terminate this Agreement at any time.

4. COMPENSATION UPON TERMINATION

4.01 **Compensation in the Event of Termination Without Cause.** In the event this Agreement is terminated by the ACBL without cause pursuant to Section 3.06 herein, the ACBL shall pay Executive an amount equal to the total monthly salary owed to the Executive for the remaining term of this Agreement provided that Executive executes and does not revoke a Separation Agreement and Release, completely releasing any and all disputes or claims Executive may have against ACBL. For instance, if Executive is terminated without cause in the first thirty (30) days of his employment, ACBL shall pay Executive his total monthly salary for a period equal to the remaining term of this Agreement upon the execution and non-revocation of a Separation Agreement and Release.

4.02. **Compensation in the Event of Death.** In the event this Agreement is terminated as a result of the death of Executive, the regular salary and benefits applicable to Executive shall continue until the end of the month following the one in which death occurs.

4.03 **Compensation in the Event of Performance Failure.** In the event this Agreement is terminated pursuant to Paragraph 3.05, the ACBL shall pay Executive Separation Pay in accordance with ACBL's Separation Pay Guidelines in effect at the time of the initiation of the Agreement upon the execution and non-revocation of a Separation Agreement and Release. See Exhibit B.

4.04. **Compensation in the Event of Other Terminations.** In the event this Agreement is terminated for reasons other than Without Cause, Death or Performance Failure, then payment of regular salary and benefits shall cease immediately upon notice of termination.

4.05 **Release of Obligation Upon Termination.** Except as specified in this Section, in the event this Agreement is terminated, the ACBL shall be relieved from any and all further obligations to compensate or provide further benefits to the Executive.

5. COMPENSATION, BENEFITS AND PERFORMANCE REVIEW

5.01 **Amount.** As long as Executive satisfactorily performs all of his obligations under this Agreement, the ACBL shall pay Executive an annual base salary of _____dollars during the first year of this Agreement; _____dollars during the second year of this Agreement; and _____during the third year of this Agreement. The base salary shall be payable in equal annualized parts payable at ACBL's regular payroll dates and annual changes in base salary shall occur effective the first pay period beginning after each anniversary date of this Agreement. Executive

authorizes the ACBL to take such deductions and withholdings from his salary as are required by law, as directed by Executive or as reasonably directed by the ACBL for its employees, which deductions shall include, without limitation, withholding for federal and state income taxes, Social Security, and regular authorized employee contribution deductions for employee benefits.

5.02 **Employee Benefits.** Executive shall be entitled to fully participate in all of the employee benefit plans and programs available to other employees of the ACBL. However, the terms of this Agreement shall not restrict the ACBL's right to change, amend, modify, or terminate any existing benefit plan or program, or to change any insurance company or modify any insurance policy adopted incident to such existing benefit plan or program. However, if ACBL discontinues its healthcare or dental insurance, ACBL will reimburse Executive for the reasonable cost of replacement insurance annually.

5.02.01. **Paid Holidays, Vacation and Sick Leave.** Executive shall be entitled to paid holidays and sick leave days each calendar year in accordance with the policies of the ACBL for all employees, provided that Executive shall be entitled to four (4) weeks' vacation time each year during the term of this Agreement. At the time of his termination, Executive will be paid for accrued but unused vacation time in accordance with the vacation carryover policies of the ACBL for all employees.

5.02.02. **Disability Insurance.** The ACBL shall pay disability insurance coverage for Executive during the term of this Agreement under its standard disability insurance policy.

5.03. **Business Expenses**

5.03.01. **Reimbursement for Business Expenses.** The ACBL shall pay for or reimburse Executive for reasonable business expenses incurred or paid for by Executive in connection with the performance of his services under this Agreement. The ACBL shall not be obligated to make any such reimbursement unless Executive presents corresponding expense statements or vouchers and such other supporting information as the ACBL may from time to time reasonably request. The ACBL reserves the right to place subsequent limitations or restrictions on business expenses to be incurred or reimbursed. Such reasonable business expenses shall include travel and expenses for Executive's spouse or domestic partner to ACBL Board meetings and other events approved by ACBL pursuant to this Section 5.05.01.

5.03.02 **Cellular Telephone.** The ACBL shall provide to Executive and pay the costs of a cellular telephone or the like to be used principally for business purposes.

5.04 **Insurance.** During the term of this Agreement, the ACBL shall insure under its general liability and directors' and officers' insurance policies for all conduct committed in good faith while acting on the capacity of Executive Director of the ACBL or in any other capacity to which Executive may be appointed or elected related to ACBL business.

6. COVENANTS RELATING TO EXECUTIVE

6.01 **Covenant Restricting Competition and Solicitation**. During the course of Executive's employment with ACBL and for a period of one year after termination of this Agreement for any reason, Executive covenants and agrees that Executive shall not,

- a. directly or indirectly, and in any capacity, whether as agent, employee, stockholder, director, creditor, consultant, owner, partner, member, employee or otherwise: engage in any business or make management decisions for any organization or consult with management of any organization which competes in any way with ACBL or its affiliate organizations in the geographical area of the ACBL membership or
- b. directly or indirectly, induce, solicit, attempt to induce, cause to be induced, or cause any employee, agent, vendor, supplier, contractor or any other person or entity in a business relationship to cease or diminish their employment, agency or business relationship with ACBL or
- c. directly or indirectly, cause any employee of ACBL to be contacted, interviewed, recruited, or hired by any other business or other persons.

6.02 **Covenant of Non-Disclosure and Return of Confidential and Proprietary Information**.

acknowledges that, during Executive's employment, Executive will have access to, and may become knowledgeable about, confidential or proprietary information about ACBL's business and affairs, including, but not limited to, the names, addresses, and other information regarding ACBL members, employees, agents, vendors, and suppliers, ACBL procedures, operations, and methods of doing business, know-how, technical information, software (including documentation thereof), products, processes, plans (including marketing and other plans), copyrights, trademarks, publications, data, activities, instructions, subscription and other lists, prices and other terms of agreements, and other oral and written communications and details proprietary to the ACBL, employee compensation and benefits, future plans, including, but not limited to, financial and business plans, financial information regarding ACBL and its business, all of which information Executive and ACBL deem to be confidential trade secrets and/or proprietary information (hereinafter referred to as "Confidential Information"). Executive recognizes that, during the course of his employment with ACBL, he may contribute to the above listed information through improvements, developments, written proposals, entry compilation and manipulation of data, or in other manners. Executive recognizes and agrees that all such improvements, developments, written proposals and entry, compilation and manipulation of data become and are the proprietary property of ACBL and are included within the term "Confidential Information." Further, Employee acknowledges and agrees that the Confidential Information shall be treated as confidential trade secrets regardless of whether third parties would consider it valuable, proprietary, confidential or trade secrets. Employee further agrees:

- a. That, unless and except in furtherance of Executive's duties performed on behalf of ACBL, Executive will not at any time, whether during or after employment with ACBL and without regard for the reason for the end of such employment, disclose to any person or entity, make known to any person or entity, or otherwise use or permit any person or entity to

examine, obtain, copy, retain, or use any information that contains, is derived from, or in any way relates to Confidential Information, without the express prior written consent of a duly authorized officer of ACBL;

- b. That, upon request by ACBL at any time during Executive's employment and immediately upon termination from or resignation of Executive's employment with ACBL, Executive will return to ACBL all documents or other records of whatever nature, including computer records and any other electronically stored information that contains Confidential Information, in Executive's possession or subject to Executive's control whether originals or copies. Executive further agrees to deliver to ACBL immediately upon termination or resignation of Employee's employment, regardless of the reason for such termination or resignation, all other property of ACBL in Employee's possession or subject to Executive's control;
- c. That Executive will not benefit or seek to benefit, financially or otherwise, through the possession, use, distribution or disclosure of any Confidential Information Executive obtained or became aware of during Executive's employment with ACBL or at any time related thereto; and
- d. That Executive waives and renounces any right to any economic or financial benefit (including attorney fees) Executive may claim or obtain in the future resulting from the unauthorized use of or disclosure to any person or entity of any Confidential Information.

6.03 **Acknowledgment of Reasonableness of Covenants.** Executive has carefully read and considered the provisions of Paragraphs 6.01 and 6.02 of this Agreement, and having done so, agrees:

- a. that the terms of said provisions, including without limitation, the covenant of confidentiality and non-competition covenant, are fair and reasonable and are reasonably required for the protection of the interests of ACBL, its employees and its members;
- b. Executive has received valuable and adequate consideration in exchange for entering into this Agreement and making such covenants and agreements contained herein;
- c. the restrictions on Executive's disclosure and use of Confidential Information, as set forth in paragraph 6.02, after the termination of Executive's employment with ABCL for any reason will not unfairly or unreasonably impair Executive's ability to secure employment within a field in which Executive is qualified;
- d. that the restrictions on Executive's rights and abilities to solicit employees and other persons and entities in business relationships with ACBL specified in paragraph 6.01 are reasonable in scope and will not unfairly or unreasonably impair Executive's ability to secure employment within a field in which Executive is qualified; and
- e. that the restrictions on Executive's rights or abilities to compete with ACBL

within the temporal and geographic limitations specified in Paragraph 6.01 are reasonable in scope and will not unfairly or unreasonably impair Executive's ability to secure employment within a field in which Executive is qualified.

6.04 **Enforcement.** The parties acknowledge and agree that: the provisions contained in this Agreement are reasonable and necessary protection of a legitimate interest of the ACBL; any material violation of these restrictions may cause substantial and irrefutable injury to the ACBL; and the ACBL would not have entered into this Agreement without receiving the additional consideration offered by Executive binding himself to these restrictions. Executive specifically acknowledges and agrees that, in the event Executive should breach any of the terms of the covenants stated in Paragraphs 6.01 or 6.02, ACBL would suffer irreparable harm which would be difficult to measure and that ACBL would not have a full and adequate remedy at law. It is, therefore, specifically agreed that such covenant may be enforced by ACBL by equitable process of injunction, without posting bond or other security. In addition, if suit is brought to enforce the covenants in Paragraphs 6.01 or 6.02 or to seek damages for breach of the same and ACBL prevails in such suit, Executive will pay to ACBL, in addition to any other damages caused to ACBL, its reasonable attorneys' fees and costs incurred in seeking such relief.

7. ARBITRATION

Any claim, controversy, dispute or disagreement between the ACBL and Executive that is in any way related to this Agreement, regardless of the facts or the legal theories that may be involved, shall be resolved on an individual basis by binding arbitration before the American Arbitration Association ("AAA") by a single arbitrator in accordance with the Employment Rules of the AAA in effect at the time the arbitration proceeding is initiated; provided, however, that the terms of this Section 7 shall not preclude any party hereto from seeking, or a court of competent jurisdiction from granting, a preliminary injunction or a temporary restraining order filed in a court of competent jurisdiction in the State of Mississippi; further provided, however, that claims for damages and other relief shall be resolved by arbitration in accordance with this Section 7. The parties shall endeavor to mutually agree on the appointment of an arbitrator, but if such agreement cannot be reached within thirty (30) days following the date the demand for arbitration has been made, AAA's arbitrator appointment procedures shall be utilized. Arbitration hearings shall be held at AAA's office in Memphis, Tennessee, or at such other location at which the parties may agree in writing. Civil discovery may be taken in such arbitration as provided in the Federal Rules of Civil Procedure and the arbitrator selected shall have the power to control the timing, scope and manner of taking of discovery and shall have the same powers to enforce the party's respective duties concerning discovery as would a federal court overseeing a similar matter, including, but not limited to, the impositions of sanctions. The arbitrator shall have the power to grant all remedies provided by Mississippi or federal law, except that punitive or treble damages shall not be awarded. The arbitrator shall prepare in writing an award that includes the legal and factual reasons for the decision. The parties shall equally divide the costs of the arbitration, but the Arbitrator may assess all such costs to the non-prevailing party in the arbitration award.

THE PARTIES TO THIS AGREEMENT EXPRESSLY AGREE TO WAIVE THEIR CONSTITUTIONAL RIGHT TO HAVE DISPUTES BETWEEN THEM RESOLVED IN COURT OR IN ANY CLASS OR COLLECTIVE FORMAT AND ARE INSTEAD ACCEPTING INDIVIDUAL ARBITRATION.

8. CONFIDENTIALITY

The ACBL and Executive shall use their best efforts to keep confidential all provisions of this Agreement. If another ACBL employee must be informed of certain provisions of this Agreement in order to implement its terms, dissemination of the necessary information will be limited to the fullest extent possible.

9. NOTICES

All notices or other communications required or permitted to be given under this Agreement shall be given in writing and sent by either personal delivery, overnight delivery, or United States registered and certified mail, return receipt requested, all of which shall be properly addressed with postal or delivery charges prepaid, to the parties at their respective addresses set forth below, or to such other addresses as either party may designate to the other in accordance with this Section 9.

If to ACBL: President
 American Contract Bridge League
 6575 Windchase Boulevard
 Horn Lake, MS 38637

If to Executive: _____

All notices sent by personal delivery shall be deemed given when actually received. All notices sent by overnight delivery shall be deemed given on the next business day. All other notices sent via United States mail shall be deemed given no later than two (2) business days after mailing.

10. GENERAL PROVISIONS

10.01 Assignability. This Agreement shall inure to the benefits of and shall be binding upon the ACBL and its successors and assigns. Executive shall not assign, delegate, sub-delegate, transfer, pledge, encumber, hypothecate, or otherwise dispose of this Agreement, or any rights, obligations, or duties hereunder, and any such attempted delegation or disposition shall be null and void and without any force or effect; provided, however, that nothing contained in this Agreement shall prevent Executive from designating beneficiaries of insurance, death, or retirement benefits.

10.02 Entire Agreement. This Agreement is a fully integrated document and contains any and all promises, covenants, and agreements between the parties hereto with respect to Executive’s employment. This Agreement supersedes any and all other, prior or contemporaneous, discussions, negotiations, representations, warranties, covenants, conditions, and agreements, whether written or oral, between the parties to this Agreement. Except as expressed in this Agreement, the parties have not exchanged any other representations, warranties, inducements, promises, or agreements respecting Executive’s employment with the ACBL.

10.03 Severability. In the event any one or more of the provisions in this Agreement shall be rendered

by a court of competent jurisdiction or an applicable regulatory agency to invalid, illegal, or unenforceable, in any respect, such invalidity, illegality or unenforceability shall not affect or impair the remainder of this Agreement that shall remain in full force and effect and enforced accordingly.

10.04 **Amendment.** This Agreement shall not be changed, amended, or modified, nor shall any performance or condition hereunder be waived, in whole or in part, except by written instrument signed by the parties to this Agreement. The waiver of any breach of any term or condition of this Agreement shall not be deemed to constitute the waiver of any other or subsequent breach of the same or any other term or condition of this Agreement.

10.05 **Governing Law.** This Agreement shall be governed by, enforced under, and construed in accordance with the laws of the State of Mississippi.

IN WITNESS WHEREOF, the parties to this Agreement have executed this Agreement as of the date first written above.

THE AMERICAN CONTRACT BRIDGE LEAGUE INC.

By: _____

EXECUTIVE

Name:

Exhibit A to Employment Agreement:

Position Summary: Executive Director who partners with the Board of Directors to set strategy and policy guidelines. Within that framework, formulates policies and provides overall direction to the organization. Plans, directs, and coordinates operational activities at the highest level of management with the help of subordinate executives and staff managers.

Essential Duties and Responsibilities:

- Maintain an active partnership with the Board of Directors. Provide leadership in developing program, organizational, and financial plans within the guidelines and policies authorized by the board.
- Lead the organization through a Headquarters Leadership Team which coordinates cross functional activities and encourages open communications with staff.
- Appoint department heads or managers and delegate responsibilities to them. Conduct annual performance appraisals and have active individual development plans. Develop and maintain a succession plan for key positions in the organization.
- Work with the staff, the Finance Committee, and Board in preparing a budget. Coordinate the organization's financial activities to operate within the approved budget, grow membership, increase efficiency and maximize return on the organization's investments.
- Coordinate development of capital projects and their implementation once approved.
- Analyze operations to evaluate performance of the organization and its staff in meeting objectives, and to determine areas of potential cost reduction, program improvement, or policy change.
- Negotiate or approve contracts and agreements with suppliers, distributors, and other organizational entities.
- See that the board is kept fully informed on the condition of the organization and the important factors influencing it. Confer with board members, organization officials, and staff members to discuss issues, coordinate activities, and resolve problems.
- Direct human resources activities, including the approval of human resource plans and activities, the selection of direct reports and other high-level staff.
- Ensure compliance with legal and ethical requirements and maintain official records and documents.

Exhibit B to Employment Agreement:

Separation Pay Guidelines

Updated: 2/15/2018

Purpose:

To ensure consistent calculation of separation pay

Policy:

Separation pay is offered to help separated employees transition to a new position. Separation pay may be offered to employees terminated for any reason other than gross misconduct. Employees who receive separation pay are required to sign a Separation Agreement and Release. This document releases the ACBL from all claims relating to the separation process. Failure to sign the document will result in the forfeiture of severance pay.

Separation pay, outlined in the below chart, will be determined by the employee's years of service and job family.

The employee's weekly pay will be based on the annual rate of base pay, divided by 52 weeks, in effect on the last day worked and will exclude bonuses, overtime, and any other forms of additional compensation.

Completed Yrs. of Svc	Hourly	Salaried/no direct reports	Management
0-2	2 wks.	4 wks.	8 wks.
3-5	4 wks.	8 wks.	12 wks.
6-10	6 wks.	10 wks.	16 wks.
>10	8 wks.	12 wks.	18 wks.

Payment of Severance/Separation pay:

Once the Separation Agreement and Release document has been signed and the 7-day revocation period has expired, separation pay will be paid through salary continuation for the number of weeks of severance offered. Separation payments will be subject to applicable taxes and withholdings.

Benefits:

ACBL will pay 100% of the employee's health (medical, dental, and/or vision) insurance premiums during the employee's weeks of separation pay but only if the employee elects COBRA. Other benefits will be handled as follows:

- Employee and company contributions to 401k will cease on the employee's last day worked.
- Any accrued and unused vacation time will be paid per the standard pay period practice and in accordance with federal, state, province, and local law. Earned and unused NABC days will be paid upon termination.
- Unused and/or accrued sick time is not paid upon termination.

Retirement benefits may be available if these terms are met:

- Employee is age 55 and has completed 20 years of service
- Employee is age 65 and has completed 5 years of service